

IN THE HIGH COURT OF ORISSA AT CUTTACK

TRP(C) No.369 of 2019

Mamata Madhubhasini Sahoo ***Petitioner***
Mr. A.K. Sahoo, Advocate
Versus
Debasish Sahoo ***Opposite Party***

CORAM:

JUSTICE SAVITRI RATHO

ORDER

16.09.2022

Order No.

08.

(Through hybrid mode)

1. Heard Mr. A.K. Sahoo, learned counsel for the petitioner.
2. Notice had been issued in the case vide order dated 15.11.2019 and interim order of stay of further proceeding had been passed. Since neither undelivered nor A.D. returned, by order dated 23.11.2021 fresh notice had been directed to be issued to the opposite party. A.D. had returned after valid service but the opposite party has not entered appearance in the case. Vide order dated 15.07.2022, a report had been called for from the learned Judge, Family Court, Khordha regarding the present status of C.P. No. 149 of 2019.
3. Report dated 23.07.2022 of the learned Judge, Family Court, Khurda reveals that although further proceedings in the case have been resumed in obedience to the order dated 15.10.2020 passed in Criminal Appeal No. 1375-1376 of 2013 in the Hon'ble Apex Court, but no further progress could be made in the case due to frequent bar accommodation in view of Covid-19

and now the case is posted to 21.09.2022 for appearance of the parties.

4. This application under Section 24 of the C.P.C. has been filed by the petitioner-wife praying for transfer of C.P. No. 149 of 2019 filed under Section 27 of the Special Marriage Act by the opp. party- husband for dissolution of marriage, in the Court of the learned Judge, Family Court, Khordha to the any competent Court in Athagarh or any other Court.

5. Mr. A.K. Sahoo, learned counsel for the petitioner submits that the marriage of the parties was solemnized on 05.11.2004 before the Marriage Office at Cuttack and the marriage has been consummated but however in compliance with the wishes of the mother of the opposite party, the marriage was solemnized between the parties as per Hindu rites and customs on 11.07.2006 and a daughter has been born to the parties in the year, 2009. The petitioner had been working as Cluster Coordinator since 2006 but after birth of her daughter, she was compelled to resign from the post and she was tutored both physically and mentally by the opposite party and his mother because she had given birth to a female child. On 18.06.2018, the petitioner was sent with her father to his house thereafter she has not been allowed to return to her matrimonial house and the efforts of the petitioner to rejoin her husband has not materialised. He further submits that as the petitioner is staying in Badamba in her father's house with her minor school going daughter which is at a distance about more than 100 kms. from Khordha and the opposite party is not providing her any financial support, it would be inconvenient for

her to go to Khordha to contest the case. He further submits that since the Court of the learned Civil Judge (Senior Division), Athagarh is only 30 km. from the village of the petitioner, it would be convenient if C.P. No. 149 of 2019 is transferred there.

6. Considering the submissions of the counsels and the settled position of law that in matrimonial cases the convenience of the wife given more importance, the prayer for transfer is allowed. The learned Judge, Family Court, Khordha is directed to transfer the records of C.P. No. 149 of 2019 (*Debasish Sahoo vrs. Mamata Madhubhasini Sahoo*) to the Court of the learned Civil Judge (Senior Division), Athagarh by 29.09.2022. The parties undertake to appear in the Court of learned Civil Judge (Senior Division), Athagarh on 14.10.2022. In case the opposite party does not appear on 14.10.2022, learned Civil Judge (Senior Division), Athagarh is requested to issue notice to the opposite party for his appearance.

7. The TRP(C) is disposed of with the aforesaid observations.

8. Registry is directed to send a copy of this order to the Court of learned Judge, Family Court, Khordha forthwith for compliance.

9. Urgent certified copy of this order be granted as per rules.

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(Savitri.Ratho)
Judge

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